

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:24-cv-04744-RGK-AJR

Date October 1, 2024

Title *Fiona Harvey v. Netflix, Inc. et al.*

Present: The Honorable R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE

Joseph Remigio

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) Order Re: Plaintiff's Request for Attorneys' Fees Resulting from Defendants' Special Motion to Strike [DE 26]

On July 29, 2024, Defendants filed a Special Motion to Strike under California's anti-strategic lawsuit against public participation ("anti-SLAPP") statute. (ECF No. 26.) On August 26, 2024, Plaintiff filed an Opposition, arguing that the Motion should be denied and requesting attorneys' fees. (ECF Nos. 41, 48.) On September 27, 2024, the Court denied Defendants' Motion. (ECF No. 69.) Having denied the Motion, the Court now considers Plaintiff's request for fees.

When a plaintiff prevails on an anti-SLAPP motion, a court may award attorneys' fees if the motion was "frivolous or solely intended to cause unnecessary delay." *Area 51 Pros., Inc. v. City of Alameda*, 20 Cal. App. 5th 581, 605–06 (quoting Cal. Civ. Proc. Code § 425.16(c)(1)). A motion is frivolous if it is "totally and completely without merit or [made] for the sole purpose of harassing an opposing party." Cal. Civ. Proc. Code § 128.5(b)(2). A motion is "totally and completely without merit . . . only if any reasonable attorney would agree that the motion is totally devoid of merit." *Chitsazzadeh v. Kramer & Kaslow*, 199 Cal. App. 4th 676, 683 (2011). "When a motion has partial merit, it . . . [cannot] be said that its 'sole' purpose is to harass." *Gerbosi v. Gaims, Weil, W. & Epstein, LLP*, 193 Cal. App. 4th 435, 450 (2011).

Here, an award of attorneys' fees is not warranted. While Defendants' Motion was ultimately unsuccessful given the low bar at the pleading stage, it was premised upon reasonable arguments and therefore, not totally devoid of merit. And because the Motion was not meritless, it was not made with the sole purpose to harass Plaintiff or cause unnecessary delay.

Accordingly, the Court **DENIES** Plaintiff's request for attorneys' fees.

IT IS SO ORDERED.

Initials of Preparer

JRE/sf